

Attorney Docket No. 49481 (70551)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**APPLICANT(S):** M. HATANAKA et al. **EXAMINER:** S. Turner  
**U.S.S.N.:** 09/471,829 **ART UNIT:** 2877  
**FILED:** December 23, 1999  
**TITLE:** (as amended) APPARATUS AND METHOD FOR MEASURING THE THICKNESS OF A THIN FILM VIA THE INTENSITY OF REFLECTED LIGHT

**Mail Stop RCE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8(a)**

I hereby certify that the attached correspondence comprising:

1. RCE Transmittal;
2. Certificate of First Class Mail;
3. Copy of Amendment filed 5/28/04;
4. Check in the amount of \$770.00; and
5. Return receipt postcard.

is being deposited with the United States Postal Service, with sufficient postage, as first class mail in an envelope addressed to:

**Mail Stop RCE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

on June 25, 2004  
449452v1

Lee Dunkle  
Lee Dunkle



RFW  
RCE/2877

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**REQUEST FOR CONTINUED EXAMINATION (RCE)**  
**(37 C.F.R. 1.114)**

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. Section 1.114, for the above identified application.

*NOTE: There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.*

*NOTE: Unlike a continuation application, a continued examination request can utilize the mailing procedure of 37 C.F.R. 1.8. See 37 C.F.R. Section 1.8(a)(2)(i)(A).*

**TIME REQUEST IS BEING MADE**

2. This request is being submitted (*check appropriate item(s) below*):
- i. ☒ Prior to abandonment of the application
  - ii. ☐ Payment of the issue fee
    - ☐ Prior to payment of issue fee
    - ☐ Issue fee has been paid but a petition under Section 1.313 has been filed herewith
  - iii. ☐ Prior to a decision on appeal to the Board of Patent Appeals & Interferences
    - ☐ A notice is being separately sent to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

**NOTE:** *If such a notice is not sent to the Board, they may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under Section 1.114.*

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145  
or ☐ Commencement of a civil action under 35 U.S.C. 146  
☐ Prior to the filing of such appeal or commencement of civil action  
☐ Such appeal or commencement of civil action has been terminated

#### **ENCLOSURES**

3. Enclosed herewith is/are:

**WARNING:** *If reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of Section 1.111. 37 C.F.R. Section 1.114(b).*

- ☐ An information disclosure (37 C.F.R. Section 1.98)  
☐ Form PTO-1449 (PTO/SB/08A and 08B)
- ☒ Enter the unentered May 28, 2004 Amendment and Response to the Final Office Action dated April 1, 2004.
- ☐ New arguments
- ☐ New evidence in support of patentability
- ☐ Other:

#### **FEE FOR REQUEST (37 C.F.R. Section 1.17(e)).**

4. This application is on behalf of:

- ☐ Small entity (and status is still as small entity) \$ 385.00
- ☒ Other than a small entity \$770.00

Continued Prosecution Request Fee \$ 770.00

#### **FEE FOR CLAIMS**

**NOTE:** *"The fee for continued examination under Section 1.114 (Section 1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.*

37 C.F.R. 1.53(d)(3) : *"The filing fee for a continued prosecution application filed under this paragraph is:*

*(i) The basic filing fee as set forth in Section 1.16; and*

(ii) Any additional Section 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under Section 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. Section 1.16(b)-(d)) has been calculated as shown below:

(Col.1)		(Col. 2)	(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY			
Claims Remaining After Amendment			Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee
Total	16	Minus	59	= 0	x \$9 =	\$		x \$18 =	\$0
Indep.	3	Minus	5	= 0	x \$43 =	\$		x \$86 =	\$ 0
[ ] First Presentation of Multiple Dependent Claim					+ \$145 =	\$		+ \$290 =	\$ 0
Total							OR	Total	
Addit. Fee						\$_____		Addit. Fee	\$

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3,

\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** See 37 C.F.R. Section 1.116.

(complete (c) or (d), as applicable)

(c) [X] No additional fee is required.

OR

(d) [ ] Total additional fee required is \$ \_\_\_\_\_.

#### EXTENSION OF TIME

(If an extension of time is appropriate complete (a) or (b), as applicable)

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

(a) [ ] Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. Section 1.17(a)(1)-(4), for the total number of months checked below:

Extension for <u>(months)</u>	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$110.00	\$ 55.00
<input type="checkbox"/> two months	\$420.00	\$210.00
<input type="checkbox"/> three months	\$950.00	\$475.00
<input type="checkbox"/> four months	\$1,480.00	\$740.00
<input type="checkbox"/> five months	\$2,010.00	\$1,005.00

Fee \$ \_\_\_\_\_

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

- ☐ An extension for \_\_\_\_\_ months has already been secured, and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

**OR**

- (b) ☒ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

### **TOTAL FEE(S) DUE**

**WARNING:** The fee for continued examination under Section 1.114 may not be deferred. 37 C.F.R. Section 1.53(f).

7. The total fee(s) due is/are:

Continued Prosecution Fee (Section 1.17(e)) \$ 770.00

Fee(s) for additional claims (if any) (Section 1.16(b)-(d)) \$ \_\_\_\_\_

Extension of time fee (if any) (Section 1.17(a)(1)-(4)) \$ \_\_\_\_\_

Total Fee(s) Due: \$ 770.00

### **PAYMENT OF FEE(S) DUE**

8. Please pay the fee(s) for this continued examination application as follows:

☒ Checks are attached for the sum of \$ 770.00

☐ Charge Account \_\_\_\_\_ the sum of \$ \_\_\_\_\_

☐ Charge Credit Card the sum of \$ \_\_\_\_\_  
(Credit Card Payment Form (PTO-2038) attached.)

Please charge any required additional fee(s) for Section 1.17(e), Section 1.16(b)-(d) and/or Section 1.17(a)(1)-(4) to

☒ Account 04-1105

☐ Credit Card (Credit Card Payment Form (PTO-2038) attached.)

### INVENTORSHIP

*NOTE: Any change of inventors must be via the procedure set forth in 37 C.F.R. Section 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.*

9. This application as amended names as inventors:

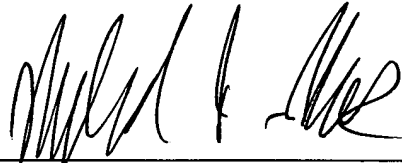
☒ the same inventors as previously designated for the claims.

☐ fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.

☐ a person not named previously as an inventor and a petition under 37 C.F.R. Section 1.48 is/has separately:

☐ being filed

☐ been filed



SIGNATURE OF PRACTITIONER

Reg. No.: 45,053

Richard I. Roos, Esq.

(type or print name of practitioner)

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Customer No.: 21874



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REFLECTED LIGHT

\*\*\*\*\*

**CERTIFICATE OF MAILING**

I hereby certify that this paper (along with any paper referred to as being attached, enclosed or accompanying) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: **Mail Stop AF**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 28, 2004.

By:

Lee Dunkle

.....  
**Mail Stop AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**AMENDMENT AND RESPONSE TO OFFICE ACTION**  
**PURSUANT TO 37 C.F.R. §1.116**

Sir:

In response to the office action dated April 1, 2004, please consider the following amendments and remarks in favor of the allowance of claims 1 and 3-20 of the above-referenced patent application. Please note that the amendments to the specification and claims commence, respectively, on page 2 and page 3, and the accompanying remarks commence on page 15.